

## **REMARKS**

### **Summary**

Claims 1-10, 12-19 and 28-29 stand in this application. Claim 11 has been canceled without prejudice. Claims 20-27 have been withdrawn. Claims 1, 7, 14 and 28 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 7, 14 and 28 in order to facilitate prosecution on the merits. Support for the above amendments can be found in the specification at least at paragraph [0029].

### **Affirmation of Election**

Restriction to one of the following claims was required:

Species 1: Claims 1-13 as disclosed in paragraphs [0044]-[0054] of the specification teaches storing Z types of factors, and then receiving N factors to compare against the Z factors for authentication (the N factors being less than Z).

Species 2: Claims 14-19, 28 and 29, which do not appear to be disclosed in the specification, teach the N factors being stored and Z factors being received for comparison (where N is less than Z).

Applicant respectfully traverses the restriction requirement and submits that a restriction of the identified claims is improper. Applicant submits that the Office Action incorrectly alleges that claims 1-13 teach storing Z factors and receiving N factors to compare against the Z factors while claims 14-19, 28 and 29 teach N factors being stored and Z factors being received for comparison. Applicant respectfully disagrees with the characterization of the claims.

Applicant submits that the pending claims all require receiving first multi-factor authentication data comprising Z different types and comparing the first-multi-factor authentication data against second multi-factor authentication data of N different types, wherein the second multi-factor authentication data comprises a subset of the first multi-

factor authentication data. Therefore, Applicant submits that restriction among the pending claims is improper.

In the event that the above traversal of the restriction requirement is unsuccessful, Applicant elects to prosecute the invention of Group 1, claims 1-13. The claims of the non-elected invention, claims 14-19, 28 and 29, are hereby withdrawn. However, Applicants reserve the right to later file continuations or divisions having claims directed to the non-elected inventions.

**Claim Rejections - 35 U.S.C. § 102**

Claims 1, 2, 4, 5, 6-8, 10, 12 and 13 stand rejected under 35 U.S.C. § 102(a) as being anticipated by United States Patent No. 6,076,167 to Borza (hereinafter "Borza"). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Borza fails to teach each and every element recited in claims 1, 2, 4, 5, 6-8, 10, 12 and 13 and thus they define over Borza. For example, with respect to claim 1, Borza fails to teach, among other things, the following language:

a separated user authentication, non-volatile data store to  
store the encrypted first multi-factor authentication data,  
the separated user authentication, non-volatile data store  
accessible only in conjunction with multi-factor user  
authentication activities....

According to the Office Action, this language is disclosed by the Borza at column 8, lines 23-25. Applicant respectfully disagrees.

Applicant respectfully submits that claim 1 defines over Borza. Borza, arguably, teaches a method and system for improving security in network applications. More particularly, Borza at the given cite arguably teaches comparing encrypted characterized biometric information against an encrypted template that provides enhanced security because the actual templates need not be stored on the server. Applicant submits that this is different than the above recited language of amended independent claim 1. Applicant

submits that the cited portion of Borza implies that, rather than storing actual versions of the biometric templates on the server, encrypted versions of the templates are stored on the server. In contrast, the claimed subject matter requires a separated non-volatile data store accessible only in conjunction with multi-factor user authentication activities. Applicant submits that the server recited in Borza is accessible during many system operations and merely stores encrypted biometric information in addition to other information and is therefore different than the data store recited in claim 1.

Applicant submits that they have been unable to locate at least the above recited language of amended independent claim 1 in the teaching of Borza. Consequently, Borza fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 2-6, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Borza.

Claims 7, 14 and 28 have been amended to recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 7, 14 and 28 are not anticipated and are patentable over Borza for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 7, 14 and 28. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 8-10, 12-13, 15-19 and 29 that depend from claims 7, 14 and 28 respectively, and therefore contain additional features that further distinguish these claims from Borza.

**Claim Rejections - 35 U.S.C. § 103**

Claims 3, 5 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,076,167 to Borza (hereinafter “Borza”) and further in view of United States Patent No. 7,000,829 to Harris et al. (hereinafter “Harris”). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the rejection.

As recited above, Applicant submits that Borza fails to teach each and every element recited in independent claims 1 and 7. Furthermore, Applicant submits that Harris fails to remedy the above identified deficiencies of Bora. Moreover, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 3, 5 and 9 that depend from claims 1 and 7 respectively, and therefore contain additional features that further distinguish these claims from the cited references.

**Conclusion**

It is believed that claims 1-10, 12-19 and 28-29 are in condition for allowance. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Applicants do not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the limitations of the independent claims and dependent claims discussed above. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to further distinguish the claims from the cited references, taken alone or in combination, based on additional features contained in the independent or dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

The Examiner is invited to contact the undersigned to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the deposit Account No. 50-4238.

Respectfully submitted,  
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Andrew H. Aurand, Reg. No. 61,875  
Under 37 CFR 1.34(a)

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